

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 676 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO  
1 to 5 No

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AHMEDABAD ELECTRICITY CO.LTD.

Versus

NEW MEGHNA CO.OP. HOUSING SOCIETY LTD.  
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Appearance:

MR KB PUJARA for Petitioner

MR IM BENGALI for Respondent No. 1  
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CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 27/07/2000

C.A.V. JUDGEMENT

Heard the learned counsel for the appellant only  
as none is present for the respondent despite the appeal  
having earlier been adjourned to give to the respondent  
an opportunity of being heard.

2. This appeal is preferred from the order of the learned Auxiliary Chamber Judge below the application at Ex.6 in Civil Suit No.4025 of 1997 pending in the Court of the learned City Civil Judge, Ahmedabad. By virtue of the impugned order, the appellant is restrained from disconnecting the power supply to the members of the respondent, which is a cooperative housing society.

3. It is submitted on behalf of the appellant that the appellant has done the service line work for the expenses of which the respondent was required to be charged. Towards such charge, the respondent had deposited a sum of Rs.1,75,485 and after deducting that amount, a sum of Rs.1,93,414.12 remained due from the respondent. By a mistake on the part of the appellant, instead of recovering the amount due as above, an amount of Rs.1,10,151.22 was refunded to the respondent. These facts are not seriously disputed by the respondent. However, when the total amount of Rs.3,03,565.34 was sought to be recovered after adjusting the amount erroneously refunded, the respondent had approached the Civil Court with the application below which the impugned order has been passed. It is submitted on behalf of the appellant that the bills issued in respect of the dues as above are the legitimate dues payable by the respondent and in the event of their failure, the appellant has a statutory right to disconnect the electric supply under Section 24 of the Indian Electricity Act, 1910 and the Condition No.17 of the Statutory Conditions of Supply framed under Section 21 (2) of the said Act. Thus, the impugned order of injunction operates against the statutory provisions and hence is required to be vacated.

4. It appears from the record and documents submitted by the appellant that the appropriate bills and necessary particulars of the calculations are furnished by the appellant and the same are not duly considered in the impugned order. In absence of any submissions or arguments to the contrary, this appeal, on the facts and contentions as above, deserves to be allowed.

5. In the result, the appeal is allowed and the impugned order passed by the learned Auxiliary Chamber Judge below the application at Ex.6 in Civil Suit No.4025 of 1997 is quashed and set aside with no order as to costs.

Sd/-

(KMG Thilake)

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